



Massachusetts
Department
of
ENVIRONMENTAL
PROTECTION

fact sheet

MA Oil Spill Act

The Massachusetts Oil Spill Act was enacted as an emergency state law in August, 2004. The Legislature further amended the Oil Spill Act in December, 2004. An electronic version of the Oil Spill Act, as amended, and related DEP Guidance are found at <http://mass.gov/dep/cleanup/laws/spillact.htm>.

The purpose of this Fact Sheet is to provide an overview of the provisions of the Oil Spill Act and includes relevant contact information. However, no one should rely on this Updated Fact Sheet as legal advice. Please review the Oil Spill Act and seek professional advice, as needed, to ensure that you have the information and advice necessary to fully understand and comply with this new law.

Overview of the Oil Spill Act Provisions

1. **Financial Assurance.** For vessels in or entering MA waters for the purpose of transporting, discharging or receiving a cargo of oil, hazardous material, or hazardous waste, you need to:
 - Provide a certificate of financial assurance to DEP in the amount of at least 1 billion dollars. Vessels with a capacity of less than 6,000 barrels are required to provide a certificate in the amount of 5 million dollars. A certificate of financial assurance must be demonstrated by evidence of insurance, surety bond, letter of credit, qualifications as a self-insurer or any combination thereof, or by other evidence of financial assurance approved by DEP. The Act also creates an incentive to use double hull vessels and/or maintain a good safety record and safety equipment by authorizing DEP to allow financial assurance in a lower amount based on these types of criteria.
 - The required certificate must be sent to DEP at the following address:

William Harkins
Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108
 - Post a copy of the financial assurance certificate on the vessel.
2. **Authority to Board and Inspect Vessels.** The Oil Spill Act authorizes MA environmental police officers to board and inspect vessels in connection with a maritime spill incident, including for the purpose of verifying that vessels have posted a copy of the required certificate of financial assurance. Persons who violate this provision are subject to a \$5000 fine.

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Robert W. Golledge, Jr.,
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Produced by the
Bureau of Waste Site Cleanup,
Updated March 29, 2005.

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(617) 574-6872.



3. **Oil Spill Response and Prevention Fee.** The Commissioner of DEP is required to set a "uniform oil spill response and prevention fee" of not less than 2 cents for each barrel of petroleum product or crude oil, unless the Commissioner finds that a lesser fee will cause the fund to reach 10 million dollars within 6 months. The Commissioner set the fee at 2 cents per barrel, effective September 1, 2004, which is collected by the Department of Revenue. The fee applies to the person owning the petroleum products at the time such products are received at a marine terminal in MA by means of a vessel from a point of origin outside of MA. DEP has a related guidance document on the fee, which can be found at the above link.
4. **Tug Escort.** Effective *January 1, 2005*, no tank vessel carrying 6,000 or more barrels of oil shall enter or transit any area of special interest within MA waters *unless* the tank vessel is accompanied by a tugboat escort. This requirement does not apply to a self-propelled tank vessel. In December, 2004, the Legislature amended the Oil Spill to allow DEP to waive strict compliance with the tugboat escort requirement in "exigent circumstances". DEP's waiver authority expires on July 1, 2006. Persons requesting DEP approval to waive the tugboat escort requirement should contact DEP's 24 hour Emergency Spill Reporting Line at 888-304-1133. DEP promulgated tug boat escort regulations at 314 CMR 19.00 on an emergency basis in December, 2004. A revised version of 314 CMR 19.00 will be in effect on a permanent basis on March 25, 2005.
5. **Recommended Vessel Route.** The Oil Spill Act, as amended in December, 2004, requires a tank vessel operating in Buzzards Bay to travel within the recommended vessel route appearing on the NOAA chart for the Bay, or as designated by the Coast Guard unless special circumstances make travel outside such a route necessary in order to avoid an imminent navigational hazard. Persons violating this requirement are subject to a \$25,000 civil penalty.
6. **Alcohol and Drug Testing.** Tank vessel owners and operators shall have policies, procedures and practices for alcohol and drug testing that meet federal requirements. In addition, they are responsible for ensuring that alcohol and drug tests are administered on all persons directly involved in any serious marine incident within two (2) hours after such incident occurs, that all evidence pertaining to those tests and all test results are preserved, and that adequate equipment is on board to perform those tests. Persons who violate these alcohol/drug testing requirements are subject to a \$10,000 civil penalty.

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7. **Watch and Crew Requirements for Buzzards Bay.** The following watch and crew requirements are applicable to tank barges and vessels towing such barges operating in Buzzards Bay:

- *Tank Barge Towing Vessels:* For all tank barge towing vessels transiting Buzzards Bay and towing a barge carrying 6,000 or more barrels of oil, the navigation watch on the tow vessel shall consist of at least 1 licensed deck officer or tow vessel operator, who shall serve *exclusively* as a lookout with no other concurrent duties. The names of each navigation watch member shall be logged in the deck log as the member assumes duties. For each such tank barge towing vessel transiting Buzzards Bay and towing a barge carrying 6,000 or more barrels of oil, there shall be 3 licensed officers or tow vessel operators on the tow vessel (one of whom may be the designated lookout). Tow vessel operators shall maintain a list of crew members while towing a tank barge in Buzzards Bay.
- *Tank Barges:* The crew requirements for tank barges shall consist of 2 personnel (including at least one certified tanker-man), 1 of whom shall be on the tank barge at all times when the tank barge is underway, anchored or moored in Buzzards Bay *unless* the tank barge is not equipped to accommodate personnel on board or is carrying less than 6,000 barrels of oil.
- *Double Hull Exception for Tank Barges:* A tank barge that is underway, anchored or moored in Buzzards Bay is *not* required to fulfill the minimum manning safety standards as stated in Section 4 (i.e., the above-listed crew and designated lookout requirements) *if such tank barge has a double hull.*

8. **Compliance with Federal Double Hull Requirements.** Any vessel that is not in compliance with the time schedules and requirements relating to double hulls set forth in the *federal Oil Pollution Prevention, Response, Liability and Compensation Act of 1990* is prohibited from docking, loading or unloading at any marine terminal in MA.

9. **Piloting Requirements.** The piloting requirements in MA General Laws Chapter 103 now apply to U.S. vessels carrying oil, hazardous material or hazardous waste in bulk as cargo in Buzzards Bay, Vineyard Sound and Mount Hope Bay. For more information on these new piloting requirements, contact Captain John Gibbons, Pilot Commissioner for District 3 (Buzzards Bay and Vineyard Sound), at (508) 563-5364, and/or William Torpey, Pilot Commissioner for District 4 (Mount Hope Bay) at (508) 675-7997.

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10. **Establishment of a Vessel Traffic Service (“VTS”) System.** The Oil Spill Act provides that by *January 1, 2006*, the Commissioner of DEP shall negotiate an agreement with the Coast Guard, the Army Corp of Engineers and the MA Pilot Commissioner and other appropriate port agencies or other appropriate organizations for a “vessel traffic service system” (“VTS”) to protect Buzzards Bay (and other MA bays and harbors when recommended by the Coast Guard or recommended by the Commissioner of DEP and approved by the Coast Guard). If the Commissioner is unable to reach agreement by the above date, DEP is directed to develop a VTS plan in consultation with the above parties. DEP’s implementation of the VTS system is subject to available funding and the enactment of a related fee system.

- The purpose of the VTS is to aid navigation by providing satellite tracking, radar, or other information regarding ship locations and traffic to prevent collisions and groundings.
- Once implemented, covered vessels will need to report relevant information to the VTS monitor, including information such as the vessel’s name, call sign, location, course, speed, destination, estimated time of arrival and any impairments to operation or navigation of the vessel. While in a VTS area covered vessels will need to maintain continuous radio contact with the VTS monitor, respond promptly when hailed by the VTS monitor and comply with all VTS measures established by the commissioner.

11. **Enhanced Enforcement Authority.** The Act also enhances the authority of the Attorney General and DEP under other state laws, primarily in the area of civil, criminal, and DEP administrative penalties and enforcement. This enhanced state enforcement authority may be used to address a range of environmental violations, including oil spills.